

11-3899 (L)

1:08-cv-11117-TPG

In re: Tremont Securities Law, State Law, and Insurance Litigation

MANDATE

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 3rd day of April, two thousand fourteen.

PRESENT: DENNIS JACOBS,
SUSAN L. CARNEY,
CHRISTOPHER F. DRONEY,
Circuit Judges.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: Aug. 4, 2014

IN RE: TREMONT SECURITIES LAW, STATE
LAW AND INSURANCE LITIGATION

Madelyn Haines and Paul Zamrowski,
Appellants,

-v.-

11-3899
11-3923
11-4022
11-4030*

* 11-4030 is currently the only open case number. The other case numbers have been determined by orders filed Mar. 13, 2013 (11-3899); Apr. 24, 2012 (11-3923); and Oct. 24, 2012 (11-4022).

MANDATE ISSUED ON 08/04/2014

Arthur E. Lange Revocable Trust,
 Arthur C. Lange, Neal J. Polan, HFM
 Charitable Remainder Trust, Eastham
 Capital Appreciation Fund LP, NPV
 Positive Corp., Daniel Jackson,
 Laborers Local Pension Plan 17, Arthur
 M. Brainson, Yvette Finkelstein, and
 Group Defined Pension Plan & Trust,
 Chateau Fiduciaire S.A., Matthew L.
 Klein Irrevocable Family Trust,
 Harriet Rutter Klein Revocable Trust,
 Geoffrey Rabie Credit Shelter Trust,
 and Joanne Brenda Rabie Credit Shelter
 Trust,

Plaintiff-Appellees,

and

Massachusetts Mutual Life Insurance
 Company, MassMutual Holding LLC,
 Oppenheimer Acquisition Corp.,
 Tremont Capital Management Inc.,
 Tremont Group Holdings, Inc., Rye
 Investment Management, Tremont
 Partners, Inc., Tremont (Bermuda)
 Limited, Harry Hodges, Robert
 Schulman, Jim Mitchell, Rupert Allan,
 Lynn O. Keeshan, Patrick Kelly,
 Stephen Thomas Clayton, Stuart
 Pologe, Cynthia J. Nicoll, Tremont
 Market Neutral Fund L.P., Tremont
 Market Neutral Fund II, L.P., Tremont
 Market Neutral Fund Limited, Tremont
 Opportunity Fund Limited, Tremont
 Opportunity Fund II L.P., Tremont
 Opportunity Fund III L.P., Tremont
 Arbitrage Fund, L.P., Tremont
 Arbitrage Fund-Ireland, Tremont
 Strategic Insurance Fund, L.P., Rye
 Select Broad Market Fund, L.P., Rye
 Select Broad Market XL Fund, L.P.,
 Rye Select Broad Market Prime Fund,
 L.P., Rye Select Broad Market

Insurance Fund, L.P., and Rye Select
Broad Market Portfolio Limited,
Defendant-Appellees.

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FOR APPELLANTS: VINCENT T. GRESHAM, Atlanta, Ga.

FOR PLAINTIFF-APPELLEES: ANDREW J. ENTWISTLE (Arthur V. Nealon and Robert N. Cappucci, Entwistle & Cappucci LLP, New York, N.Y., and Reed R. Kathrein and Lee M. Gordon, Hagens Berman Sobol Shapiro LLP, Berkeley, Cal., *on the brief*), Entwistle & Cappucci LLP, New York, N.Y., *for appellees* Arthur E. Lange Revocable Trust, Arthur E. Lange, Neal J. Polan, HFM Charitable Remainder Trust, Eastham Capital Appreciation Fund LP, NPV Positive Corp., and for the benefit of Nominal Defendants, Daniel Jackson, and Laborers Local Pension Plan 17.

JEFFREY M. HABER (Stephanie M. Beige, *on the brief*), Bernstein Liebhard LLP, New York, N.Y., *for appellees* Arthur M. Brainson, Yvette Finkelstein, and Group Defined Pension Plan & Trust.

DEMET BASAR (Daniel W. Krasner, *on the brief*), Wolf Haldenstein Adler Freeman & Herz LLP, New York, N.Y., *for appellees* Chateau Fiduciaire S.A., Matthew L. Klein Irrevocable Family Trust, and Harriet Rutter Klein Revocable Trust.

DAVID A. ROSENFELD, Robbins Geller Rudman & Dowd LLP, Melville, N.Y., *for appellees* Geoffrey Rabie Credit Shelter Trust and

Joanne Brenda Rabie Credit
Shelter Trust.

FOR DEFENDANT-APPELLEES:

JOSEPH L. KOCIUBES (Carol E. Head, *on the brief*), Bingham McCutchen LLP, Boston, Mass., for appellees Massachusetts Mutual Life Insurance Company and MassMutual Holding LLC.

DAVID A. KOTLER, Dechert LLP, Princeton, N.J., for appellee Oppenheimer Acquisition Corp.

SETH SCHWARTZ (Jason C. Vigna, *on the brief*), Skadden, Arps, Slate, Meagher & Flom LLP, New York, N.Y., for appellees Tremont Capital Management Inc., Tremont Group Holdings, Inc., Rye Investment Management, Tremont Partners, Inc., Tremont (Bermuda) Limited, Harry Hodges, Robert Schulman, Jim Mitchell, Rupert Allan, Lynn O. Keeshan, Patrick Kelly, Stephen Thomas Clayton, Stuart Pologe, and Cynthia J. Nicoll.

JAMIE B.W. STECHER (Ralph A. Siciliano, David J. Kanfer, Zev Feinstein Raben, *on the brief*), Tannenbaum Helpert Syracuse & Hirschtritt LLP, New York, N.Y., for appellees Tremont Market Neutral Fund L.P., Tremont Market Neutral Fund II, L.P., Tremont Market Neutral Fund Limited, Tremont Opportunity Fund Limited, Tremont Opportunity Fund II L.P., Tremont Opportunity Fund III L.P., Tremont Arbitrage Fund, L.P., Tremont Arbitrage Fund-Ireland, Tremont Strategic Insurance Fund, L.P., Rye Select Broad Market Fund, L.P., Rye

Select Broad Market XL Fund,
L.P., Rye Select Broad Market
Prime Fund, L.P., Rye Select
Broad Market Insurance Fund,
L.P., and Rye Select Broad
Market Portfolio Limited.

Appeal from a judgment of the United States District
Court for the Southern District of New York (Griesa, J.).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED
AND DECREED** that the appeal is **DISMISSED**.

Madelyn Haines and Paul Zamrowski appeal from a
judgment of the United States District Court for the
Southern District of New York (Griesa, J.), approving a
class action settlement over their objections. We assume
the parties' familiarity with the underlying facts, the
procedural history, and the issues presented for review.

By summary order of October 25, 2013, we remanded this
matter pursuant to the procedure outlined in United States
v. Jacobson, 15 F.3d 19, 22 (2d Cir. 1994). See In re
Tremont Secs. Law, State Law & Ins. Litig., 542 F. App'x 43
(2d Cir. 2013). The purpose of the remand was to clarify
whether the Settlement Agreement released the appellants'
claims arising from the Trustee Settlement.

The district court responded in an order (dated
December 13, 2013) stating that the claims arising out of
the Trustee Settlement were not released in the Settlement
Agreement. In re Tremont Secs. Law, State Law & Ins.
Litig., 08 Civ. 11117, ECF No. 914 (S.D.N.Y. Dec. 13, 2013).
Pursuant to our previous summary order, therefore, we
conclude that the appellants' appeal is moot.

For the foregoing reasons, and finding no merit in the
appellants' other arguments, we hereby **DISMISS** the appeal as
moot.

FOR THE COURT:
CATHERINE O'HAGAN WOLFE, CLERK

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

Catherine O'Hagan Wolfe

Catherine O'Hagan Wolfe

